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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,263	09/24/2001	Kevin John Ashton	CM 2094	6594

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CINCINNATI, OH 45224

EXAMINER
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VON BUHR, MARIA N

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/937,263

Applicant(s)

ASHTON, KEVIN JOHN

Examiner

Maria N. Von Buhr

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 Sept 2001 & 13 Jun 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Examiner acknowledges receipt of Applicant's response to the previous Office action, received 13 June 2005; which amends the drawings, specification and claims 1 and 7-11, cancels claims 2, 3, and 6, and introduces claim 12. Claims 1, 2, 5 and 7-12 are now pending in this application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. As noted in the previous Office action, the title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. In response to Applicant's amendment and remarks, the 37 CFR §1.75(c) objection to claim 9 is deemed to have been overcome and is, therefore, withdrawn.
5. The replacement sheet for Fig. 2 was received on 13 June 2005. The drawings remain not acceptable for the reasons presented below.
6. In response to Applicant's amendment and remarks, the drawings remain objected to under 37 CFR §1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, as presented in the previous Office action, the "means for checking the location and/or quantity of items ... and providing an indication of misplaced items" (claim 10), and "means for providing an indication of the removal of large numbers of items" (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. These concerns were not addressed in Applicant's instant response. Accordingly, the objection is maintained.
7. Corrected drawing sheets in compliance with 37 CFR §1.121(d) are required in reply to this Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR §1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by Examiner, Applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. Furthermore, this application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

9. In response to Applicant's amendment and remarks, the 35 U.S.C. §112, first paragraph, rejection of claim 3 is deemed to have been overcome and is, therefore, withdrawn.

10. In response to Applicant's amendment and remarks, the 35 U.S.C. §112, second paragraph rejection of the claims is deemed to have been overcome and is, therefore, withdrawn.

11. In response to Applicant's amendment and remarks, concerning the 35 U.S.C. §102(b) rejection of claims 1, 2 and 4-11, as being anticipated by Griffith et al. (U.S. Patent No. 5,887,176), and the 35 U.S.C. §102(e) rejection of claims 1-3 and 5-7, as being anticipated by Goff et al. (U.S. Patent No. 6,600,420), Examiner notes the following:

a. As presented in the previous Office action, Griffith et al. disclose "a system that utilizes radio frequency circuitry in combination with microprocessor devices and specially designed software to provide an improved structure and operation for the monitoring, protection and control of inventory assets. Generally, the system is embodied in a system controller unit, one or more interrogator devices and multiple transponder units. The system controller unit may be a personal computer (PC) based device for effecting the control and monitoring of the system's operation. In addition, the system controller unit serves as a data collection device and as an alarm device. The interrogator device(s) incorporate a transceiver controlled by microprocessor circuitry within the interrogator devices. The transponder units also include a radio transceiver and microprocessor circuitry. The transponder units are attached to a container or item to be monitored and protected. The microprocessor circuit and the memory therein store the transponder identification code and can also contain data on the contents or nature of the container/item to which it is attached" (see at least, the abstract; Figs. 1-2, with accompanying text; cols. 1-3; col. 4, lines 58-65; col. 5, lines 39-44; col. 8, line 50 - col. 9, line 3; col. 13, lines 1-10; col. 17, lines 20-33).

b. Further as presented in the previous Office action, Goff et al. disclose a radio frequency identification (RFID) system including "antenna shelf tape ... for use with items having radio frequency identification elements or tags associated with items of interest" for determining the presence of items on

shelves in a library (see at least, the abstract; Figs. 9-10, with accompanying text; cols. 1-3; col. 6, line 45 - col. 8, line 8; col. 10, lines 5-18; col. 11, line 10 - col. 16, line 42).

c. Applicant argues that "the Griffith et al. reference does not disclose Applicant's claimed use of one or more sensors arranged to receive signals from a transponder comprising a multi-bit magnetic tag" and that "the Goff et al. reference does not disclose Applicant's claimed use of one or more supports that include an electronic character display" (page 11 of the instant response). Since Applicant has incorporated the limitations of both claims 3 and 4 into parent claims 1 and 12, these arguments are persuasive. However, Examiner notes that Applicant has argued both references separately, and has not addressed their possible combination.

d. In this regard, Griffith et al. teach the instant invention substantially as claimed, as presented above, except for the limitation concerning use of a multi-bit magnetic tag. Goff et al. teach such multi-bit magnetic tag use, as noted above. It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to modify the system of Griffith et al., to incorporate such use of multi-bit magnetic tags as taught by Goff et al., because Goff et al. teach a resultant increased level of security (col. 1, lines 30-40).

e. In the alternative, Goff et al. teach the instant invention substantially as claimed, as presented above, except for the limitation concerning use of an electronic character display on the support. Griffith et al. teach such use of an electronic character display on the support, as noted above. It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to modify the system of Goff et al., to incorporate such use of an electronic character display on the support as taught by Griffith et al., because Griffith et al. teach a resultant increased facility to inform and interact with a user regarding inventory status (col. 4, lines 59-65).

f. Accordingly, claims 1, 2, 5 and 7-12 are now rejected under 35 U.S.C. §103(a), as being unpatentable over Griffith et al. (U.S. Patent No. 5,887,176) in view of Goff et al. (U.S. Patent No. 6,600,420), or, in the alternative, as being unpatentable over Goff et al. (U.S. Patent No. 6,600,420) in view of Griffith et al. (U.S. Patent No. 5,887,176).

12. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR §1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria N. Von Buhr whose telephone number is 571-272-3755. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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